

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ALABAMA**

INNOVATIVE HEARTH PRODUCTS, LLC, §

§
Plaintiff, §

v. §
§

Case. No.

NORTH AMERICAN ELITE §
INSURANCE COMPANY, §

§
Defendant. §

DEFENDANT'S NOTICE OF REMOVAL

Defendant NORTH AMERICAN ELITE INSURANCE COMPANY (“North American” or “Defendant”) hereby submits this Notice of Removal to remove this action from the Circuit Court of Franklin County, Alabama, to the United States District Court for the Northern District of Alabama pursuant to 28 U.S.C. §§ 1332, 1441, and 1446. In support of this Notice of Removal, Defendant states as follows:

FACTUAL AND PROCEDURAL HISTORY

1. On February 18, 2022, Plaintiff INNOVATIVE HEARTH PRODUCTS, LLC (“Plaintiff”) filed a Complaint in the Circuit Court of Franklin County, Alabama, cause number 33-CV-2022-900018.00. Pursuant to 28 U.S.C. § 1446(a), a true and correct copy of the Complaint is attached hereto as **Exhibit A**.

2. Through its Complaint, Plaintiff seeks damages arising from alleged disputes concerning an insurance policy Plaintiff alleges as purchased from Defendant. Plaintiff also alleges that Defendant breached its contractual obligations under the policy because Defendant failed and refused to pay Plaintiff’s claimed loss.

3. Plaintiff seeks a trial by jury. **Exhibit A** at p. 10.
4. Defendant was formally served in this action on February 22, 2022. *See Exhibit A.* Removal was effectuated within 30 days of receipt of the Complaint pursuant to 28 U.S.C. § 1446(b). *Id.*

GROUND FOR REMOVAL

5. Under 28 U.S.C. § 1332, this Court has original jurisdiction over Plaintiff's action. As explained below, there is complete diversity between the parties and the amount in controversy exceeds \$75,000.00.

DIVERSITY OF CITIZENSHIP EXISTS

6. Diversity of citizenship exists when a suit is between citizens of different states or citizens of a state and citizens of a foreign state. 28 U.S.C. § 1332(a)(1)-(2).
7. There is complete diversity of citizenship between Plaintiff and Defendant. Under 28 U.S.C. § 1332(c)(1), a "corporation shall be deemed to be a citizen of every State and foreign state by which it has been incorporated and of the State or foreign state where it has its principal place of business...."

8. The citizenship of a limited liability entity is determined by the citizenship of their members. *Harvey v. Grey Wolf Drilling Co.*, 542 F.3d 1077, 1080 (5th Cir. 2008). When members of a limited liability entity are themselves entities or associations, citizenship must be traced through however many layers of members there are until arriving at the entity that is not a limited liability entity and identifying its citizenship status. *See Mullins v. TestAmerica, Inc.*, 564 F.3d 386, 298-99 (5th Cir. 2009).

9. Innovative Hearth Products, LLC is a Delaware limited liability company with its principal place of business in Alabama. *See Exhibit A ¶ 1.* On information and belief, Innovative Hearth Products, LLC is the sole member of Innovative Hearth Products, LLC.

10. North American Elite Insurance Company is a corporation organized under the laws of New Hampshire, with its principal place of business in New York, New York.

11. Accordingly, there is complete diversity of citizenship among Plaintiff and Defendant.

12. The claim in controversy exceeds, exclusive of interest and costs, the sum of seventy-five thousand dollars (\$75,000). *See Exhibit A ¶ 10.*

PROCEDURAL REQUIREMENTS

13. Removal to this District is proper because the Circuit Court of Franklin County, Alabama is within the Northern District of Alabama. 28 U.S.C. § 1441(a), § 1446(a).

14. Pursuant to 28 U.S.C. § 1446(a), Defendant's Notice of Removal is accompanied by copies of the following:

- a. Plaintiff's Complaint, which is the sole pleading asserting causes of action, attached thereto as **Exhibit A**;
- b. All executed process in the case are attached thereto as **Exhibit B**;
- c. The docket sheet is attached thereto as **Exhibit C**; and
- d. A list of all counsel of record, including addresses, telephone numbers and parties represented, is attached thereto as **Exhibit D**.

Dated: March 22, 2022

By: s/Kile T. Turner

Kile T. Turner
Norman, Wood, Kendrick & Turner
Ridge Park Place, Suite 3000
1130 22nd Street South
Birmingham, Alabama 35205
Direct: 205.259.1033
Fax: 205.251.5479
www.nwkt.com

Of Counsel:

Aidan M. McCormack (*pro hac* forthcoming)
aidan.mccormack@us.dlapiper.com
Mark L. Deckman (*pro hac* forthcoming)
mark.deckman@us.dlapiper.com
1251 Avenue of the Americas
New York, New York 10020
T: 212.335.4750
F: 917.778.8750

***Counsel for Defendant North American Elite
Insurance Company***

CERTIFICATE OF SERVICE

I hereby certify that on the 22nd day of March, 2022, I electronically filed the foregoing document with the Clerk of the Court using the CM/ECF system, which will automatically send notice of such filing to all attorneys of record.

s/Kile T. Turner
OF COUNSEL